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Attorneys for Plaintiffs,

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

**BLAKE DUGGER, INDIVIDUALLY
AND ON BEHALF OF ALL OTHERS
SIMILARLY SITUATED,**

Plaintiff,

v.

**GJG CAPITAL, INC., DBA AIDING
STUDENT RELIEF,**

Defendant.

Case No.:

CLASS ACTION COMPLAINT

**1. NEGLIGENT VIOLATIONS OF THE
TELEPHONE CONSUMER PROTECTION
ACT [47 U.S.C. §227 ET SEQ.]**

**2. WILLFUL VIOLATIONS OF THE
TELEPHONE CONSUMER PROTECTION
ACT [47 U.S.C. §227 ET SEQ.]**

JURY TRIAL DEMANDED

INTRODUCTION

1. BLAKE DUGGER (“Plaintiff”) bring this Class Action Complaint for damages, injunctive relief, and any other available legal or equitable remedies, resulting from the illegal actions of GJG CAPITAL, INC. DBA AIDING STUDENT RELIEF (“Defendant”), in negligently contacting Plaintiff on Plaintiff’s cellular telephone, in violation of the Telephone Consumer Protection Act, 47 U.S.C. § 227 et seq., (“TCPA”), thereby invading Plaintiff’s privacy. Plaintiff alleges as follows upon personal knowledge as to himself and his own acts and experiences, and, as to all other matters, upon information and belief, including investigation conducted by his attorneys.
2. The TCPA was designed to prevent calls and messages like the ones described within this complaint, and to protect the privacy of citizens like Plaintiff. “Voluminous consumer complaints about abuses of telephone technology – for example, computerized calls

1 dispatched to private homes – prompted Congress to pass the TCPA.” *Mims v. Arrow*
 2 *Fin. Servs., LLC*, 132 S. Ct. 740, 744 (2012).

- 3 3. In enacting the TCPA, Congress intended to give consumers a choice as to how creditors
 4 and telemarketers may call them, and made specific findings that “[t]echnologies that
 5 might allow consumers to avoid receiving such calls are not universally available, are
 6 costly, are unlikely to be enforced, or place an inordinate burden on the consumer.
 7 TCPA, Pub.L. No. 102–243, § 11. Toward this end, Congress found that

8 [b]anning such automated or prerecorded telephone calls to the home, except
 9 when the receiving party consents to receiving the call or when such calls are
 10 necessary in an emergency situation affecting the health and safety of the
 11 consumer, is the only effective means of protecting telephone consumers from
 this nuisance and privacy invasion.

12 Id. at § 12; see also *Martin v. Leading Edge Recovery Solutions, LLC*, 2012 WL
 13 3292838, at* 4 (N.D.Ill. Aug. 10, 2012) (citing Congressional findings on TCPA’s
 14 purpose).

- 15 4. Congress also specifically found that “the evidence presented to the Congress indicates
 16 that automated or prerecorded calls are a nuisance and an invasion of privacy, regardless
 17 of the type of call....” Id. at §§ 12-13. See also, *Mims*, 132 S. Ct. at 744.
 18 5. As Judge Easterbrook of the Seventh Circuit recently explained in a TCPA case
 19 regarding calls to a non-debtor similar to this one:

20 The Telephone Consumer Protection Act [] is well known for its provisions
 21 limiting junk-fax transmissions. A less-litigated part of the Act curtails the use of
 22 automated dialers and prerecorded messages to cell phones, whose subscribers
 23 often are billed by the minute as soon as the call is answered—and routing a call
 to voicemail counts as answering the call. An automated call to a landline phone
 can be an annoyance; an automated call to a cell phone adds expense to
 annoyance.

24 *Soppet v. Enhanced Recovery Co., LLC*, 679 F.3d 637, 638 (7th Cir. 2012).

- 25 6. The Ninth Circuit recently affirmed certification of a TCPA class case remarkably similar
 26 to this one in *Meyer v. Portfolio Recovery Associates, LLC*, 707 F.3d 1036, (9th Cir.
 27 2012).

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JURISDICTION AND VENUE

7. This Court has federal question jurisdiction because this case arises out of violation of federal law. 47 U.S.C. §227(b); *Mims v. Arrow Fin. Servs., LLC*, 132 S. Ct. 740 (2012).
8. Venue is proper in the United States District Court for the Central District of California pursuant to 18 U.S.C. § 1391(b) and 1441(a) because Defendant is subject to personal jurisdiction in the County of Orange, State of California.

PARTIES

9. Plaintiff is, and at all times mentioned herein was, a citizen and resident of the State of California. Plaintiff is, and at all times mentioned herein was, a “person” as defined by 47 U.S.C. § 153 (39).
10. Plaintiff is informed and believes, and thereon alleges, that Defendant is, and at all times mentioned herein was, a corporation whose State of Incorporation and principal place of business is in the County of Orange in the State of California. Defendant, is and at all times mentioned herein was, a corporation and is a “person,” as defined by 47 U.S.C. § 153 (39). Defendant is a company in the business of student loan consolidation services. Plaintiff alleges that at all times relevant herein Defendant conducted business in the County of Orange in the State of California, and within this judicial district.

FACTUAL ALLEGATIONS

11. At all times relevant, Plaintiff was a citizen of the State of California. Plaintiff is, and at all times mentioned herein was, a “person” as defined by 47 U.S.C. § 153 (39).
12. Defendant is, and at all times mentioned herein was, a corporation and a “person,” as defined by 47 U.S.C. § 153 (39).
13. At all times relevant Defendant conducted business in the State of California and in the County of Orange, within this judicial district.
14. On December 18, 2015, Plaintiff received a text message from Defendant that read:

This is Susan from ASR. I’m trying to reach you to see if you’re still interested in Student Loan Forgiveness. Please call @ 877-778-2984.
Reply STOP to opt out

1 15. Plaintiff, on or about December 18, 2015, responded to Defendant's text
2 message notification by replying "STOP."

3 16. Prior to December 18, 2015, Plaintiff had never contacted nor conducted any business
4 with Defendant in any fashion, including having never visited any of Defendant's online
5 websites.

6 17. The text message placed to Plaintiff's cellular telephone was placed via an "automatic
7 telephone dialing system," ("ATDS") as defined by 47 U.S.C. § 227 (a)(1) as prohibited
8 by 47 U.S.C. § 227 (b)(1)(A).

9 18. The telephone number that Defendant, or its agent called was assigned to a cellular
10 telephone service for which Plaintiff incurs a charge for incoming calls pursuant to 47
11 U.S.C. § 227 (b)(1).

12 19. These telephone calls constituted calls that were not for emergency purposes as defined
13 by 47 U.S.C. § 227 (b)(1)(A)(i).

14 20. As of December 23, 2015, Plaintiff did not provide Defendant or its agents with prior
15 express consent to receive unsolicited text messages, pursuant to 47 U.S.C. § 227
16 (b)(1)(A).

17 21. These telephone calls by Defendant, or its agents, violated 47 U.S.C. § 227(b)(1).

18 **CLASS ACTION ALLEGATIONS**

19 22. Plaintiff brings this action on behalf of himself and on behalf of and all others similarly
20 situated ("the Class").

21 23. Plaintiff represents, and is a member of, the Class, consisting of all persons within the
22 United States who received any unsolicited text messages from Defendant which text
23 message was not made for emergency purposes or with the recipient's prior express
24 consent within the four years prior to the filing of this Complaint.

25 24. Defendant and its employees or agents are excluded from the Class. Plaintiff does not
26 know the number of members in the Class, but believes the Class members number in the
27 hundreds of thousands, if not more. Thus, this matter should be certified as a Class
28 action to assist in the expeditious litigation of this matter.

1 25. Plaintiff and members of the Class were harmed by the acts of Defendant in at least the
2 following ways: Defendant, either directly or through its agents, illegally contacted
3 Plaintiff and the Class members via their cellular telephones by using marketing and text
4 messages, thereby causing Plaintiff and the Class members to incur certain cellular
5 telephone charges or reduce cellular telephone time for which Plaintiff and the Class
6 members previously paid, and invading the privacy of said Plaintiff and the Class
7 members. Plaintiff and the Class members were damaged thereby.

8 26. This suit seeks only damages and injunctive relief for recovery of economic injury on
9 behalf of the Class, and it expressly is not intended to request any recovery for personal
10 injury and claims related thereto. Plaintiff reserves the right to expand the Class
11 definition to seek recovery on behalf of additional persons as warranted as facts are
12 learned in further investigation and discovery.

13 27. The joinder of the Class members is impractical and the disposition of their claims in the
14 Class action will provide substantial benefits both to the parties and to the court. The
15 Class can be identified through Defendant's records or Defendant's agents' records.

16 28. There is a well-defined community of interest in the questions of law and fact involved
17 affecting the parties to be represented. The questions of law and fact to the Class
18 predominate over questions which may affect individual Class members, including the
19 following:

- 20 a) Whether, within the four years prior to the filing of this Complaint, Defendant or
21 its agents sent any text messages to the Class (other than a message made for
22 emergency purposes or made with the prior express consent of the called party) to
23 a Class member using any automatic dialing system to any telephone number
24 assigned to a cellular phone service;
- 25 b) Whether Plaintiff and the Class members were damaged thereby, and the extent of
26 damages for such violation; and
- 27 c) Whether Defendant and its agents should be enjoined from engaging in such
28 conduct in the future.

29. As a person that received at least one marketing and text message without Plaintiff's prior express consent, Plaintiff is asserting claims that are typical of the Class. Plaintiff will fairly and adequately represent and protect the interests of the Class in that Plaintiff has no interests antagonistic to any member of the Class.

30. Plaintiff and the members of the Class have all suffered irreparable harm as a result of the Defendant's unlawful and wrongful conduct. Absent a class action, the Class will continue to face the potential for irreparable harm. In addition, these violations of law will be allowed to proceed without remedy and Defendant will likely continue such illegal conduct. Because of the size of the individual Class member's claims, few, if any, Class members could afford to seek legal redress for the wrongs complained of herein.

31. Plaintiff has retained counsel experienced in handling class action claims and claims involving violations of the Telephone Consumer Protection Act.

32. A class action is a superior method for the fair and efficient adjudication of this controversy. Class-wide damages are essential to induce Defendant to comply with federal and California law. The interest of Class members in individually controlling the prosecution of separate claims against Defendant is small because the maximum statutory damages in an individual action for violation of privacy are minimal. Management of these claims is likely to present significantly fewer difficulties than those presented in many class claims.

33. Defendant has acted on grounds generally applicable to the Class, thereby making appropriate final injunctive relief and corresponding declaratory relief with respect to the Class as a whole.

FIRST CAUSE OF ACTION

NEGLIGENT VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT

47 U.S.C. § 227 ET SEQ.

34. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

1 35. The foregoing acts and omissions of Defendant constitute numerous and multiple
2 negligent violations of the TCPA, including but not limited to each and every one of the
3 above-cited provisions of 47 U.S.C. § 227 et seq.

4 36. As a result of Defendant's negligent violations of 47 U.S.C. § 227 et seq, Plaintiff and
5 The Class are entitled to an award of \$500.00 in statutory damages, for each and every
6 violation, pursuant to 47 U.S.C. § 227(b)(3)(B).

7 37. Plaintiff and the Class are also entitled to and seek injunctive relief prohibiting such
8 conduct in the future.

9 **SECOND CAUSE OF ACTION**

10 **KNOWING AND/OR WILLFUL VIOLATIONS OF THE**

11 **TELEPHONE CONSUMER PROTECTION ACT**

12 **47 U.S.C. § 227 ET SEQ.**

13 38. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as
14 though fully stated herein.

15 39. The foregoing acts and omissions of Defendant constitute numerous and multiple
16 knowing and/or willful violations of the TCPA, including but not limited to each and
17 every one of the above-cited provisions of 47 U.S.C. § 227 et seq.

18 40. As a result of Defendant's knowing and/or willful violations of 47 U.S.C. § 227 et seq,
19 Plaintiff and The Class are entitled to an award of \$1,500.00 in statutory damages, for
20 each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. §
21 227(b)(3)(C).

22 41. Plaintiff and the Class are also entitled to and seek injunctive relief prohibiting such
23 conduct in the future.

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PRAYER FOR RELIEF

Wherefore, Plaintiff respectfully requests the Court grant Plaintiff, and The Class members the following relief against Defendant:

**FIRST CAUSE OF ACTION FOR NEGLIGENT VIOLATION OF
THE TCPA, 47 U.S.C. § 227 ET SEQ.**

- As a result of Defendant's negligent violations of 47 U.S.C. § 227(b)(1), Plaintiff seeks for himself and each Class member \$500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).
- Pursuant to 47 U.S.C. § 227(b)(3)(A), injunctive relief prohibiting such conduct in the future.
- Any other relief the Court may deem just and proper.

**SECOND CAUSE OF ACTION FOR NEGLIGENT VIOLATION OF
THE TCPA, 47 U.S.C. § 227 ET SEQ.**

- As a result of Defendant's negligent violations of 47 U.S.C. § 227(b)(1), Plaintiff seeks for himself and each Class member \$1500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).
- Pursuant to 47 U.S.C. § 227(b)(3)(A), injunctive relief prohibiting such conduct in the future.
- Any other relief the Court may deem just and proper.

TRIAL BY JURY

42. Pursuant to the Seventh Amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Dated: February 10, 2016

Respectfully submitted,

THE LAW OFFICES OF TODD M. FRIEDMAN, PC

By: /s/ Todd M. Friedman
TODD M. FRIEDMAN, ESQ.
ATTORNEY FOR PLAINTIFF